

REMARKS

The rejections and comments of the Examiner set forth in the Office Action dated May 21, 2003 have been carefully reviewed by the Applicants. Claims 1-7 are pending in the application, with Claims 1-7 being rejected.

Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically the phrase "the edge of the first source mask" is objected to. In response, Claims 1 and 5 have been amended to remove the phrase.

Claims 1-4 are currently rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 6265365) in view the Background of the Invention. Applicants respectfully traverse the rejection on the grounds that the cited combination of Lim and the Background of the Invention would not be obvious to one with normal skill in the art.

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The rejection holds that it would be obvious to remove the spacer 25 (second source mask 25) of Lim. This is incorrect, since removal of the spacer 25 will most likely destroy the device. One with normal skill in the art would appreciate the fact that the oxide sidewall spacer 25 and the oxide layer 13 are continuous, and that removal of the sidewall spacer 25 without adversely affecting the first gate insulating layer 13 would be very difficult since they would be indistinguishable to an etch process. Moreover, in contrast to the removal of a photoresist mask (as taught in the Background of the Invention), there is no reason to remove the oxide sidewall spacer 25.

In addition to damaging the first gate insulating layer 13, the oxide portion of the second gate insulating layer 17 would also be subject to attack.

Finally, it should be noted that removal of the sidewall spacer 53 would render the invention of Lim unsuitable for its intended purpose, since the sidewall spacer 53 serves to insulate the floating gate 45 as described at col. 7, lines 44-50.

Claims 5-7 are currently rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 6265365) in view the Background of the Invention. Applicants respectfully traverse the rejection on the grounds that the cited combination of Lim and the Background of the Invention would not be obvious to one with normal skill in the art, for the reasons cited above.

As a whole, Lim teaches the necessity for leaving the sidewall spacer in place, and one with normal skill in the art would recognize that removal of the sidewall spacer would risk destruction of the device with no discernable benefit. In summary, Applicants assert that Claims 1-7 are in condition for allowance and earnestly solicit such action by the Examiner.

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Respectfully submitted,

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Date: August 14, 2003


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